

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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VERA GORFINKEL,

Plaintiff,

v.

Case No.: CV 13-3093 (JFB) (AKT)

RALF VAYNTRUB, INVAR CONSULTING LTD.,
GENOMETRICA LTD. and GENOMETRICA
RESEARCH INC.

Defendants.
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**ROBERT GREENBERG, ESQ. DECLARATION IN OPPOSITION
TO RULE 12(b) (6) MOTION**

ROBERT GREENBERG, ESQ, declares the following to be true, accurate and complete under the penalty of perjury:

1. He is an attorney for the plaintiff in the State Court suit and has personal knowledge of events that occurred in the within litigation amongst all of the defendants named regarding events beginning in April, 2013 with his substitution as co-counsel in the State Court case then pending in Supreme Court Suffolk County before Hon. Ralph Gazzillo and he makes this declaration in opposition to the rule 12(b) (6) motion to dismiss.

2. Declarant was informed that prior counsel in this case, Meltzer Lippe, Goldstein and Breitstone, LLP of 190 Willis Avenue, Mineola, New York 11501 had the Summons with Notice under Index#11-34172 served upon Ralf Vayntrub personally in Russia.

3. Declarant was requested to pick up the original of the Affidavit of Service which was being translated from Russian into English from a translation service A&M

Logos located at 40 Rector Street, 15th floor, New York, New York 10004 and take it to the Supreme Court Suffolk County for Filing and he did so.

4. I remember this clearly as I also went out to the Courthouse in Suffolk County to attend to a second procedural matter, submission of an Order to Show Cause in this same case as declarant was entering the case as counsel at the same time as filing this affidavit of service.

5. Declarant remembers submitting the Order to show cause for signature and at the same time submitting the Affidavit of Service to the Clerk in the Courthouse who accepted the same for filing.

6. Enclosed is a copy from my file of the affidavit of service as filed?

7. There is no doubt from the affidavit of service that Mr. Ralf Vayntrub was served with this summons with Notice on January 28, 2012 at 11 Sabornaya Square apt. #5, City of Saratov 410028 and had knowledge of the commencement of this lawsuit and service upon him of a summons with notice.

8. In fact there is a letter from an attorney, (likely that of Mr. Vayntrub) who inquired on November 22, 2012 if he had been also served by mail and Mr. A.V. Marnchak, the Asst. Postmaster of the Main Post Office in the City of Saratov, confirmed the service upon him in writing to the attorney making inquiry that Mr. Vayntrub had been sent mail in this case which we contend is the summons with Notice of this action.

9. Mr. Vayntrub has not submitted an affidavit he was not served on January 12, 2012 because as indicated by the affidavit of service as translated nor does he explain why an attorney was inquiring in November, 2012 about proof of service upon

him dating back to January, 2012. He is currently in default in responding to service upon him of the Summons with Notice and has been for more than a year..

10. Declarant was at the Supreme Court Courthouse in Riverhead in April 2013 and recalls delivering the Original Affidavit of Service as translated into English to the Clerk for filing and it was filed in my presence.

11. When declarant was there at the Courthouse to submit the Order to Show Cause for filing and it too was filed, the Clerk reviewed the contents of the Affidavit to Service and knew from talking to me and also looking at the document it was an affidavit of service to be filed with the court and the Clerk accepted it for filing.

12 Annexed is a copy of the affidavit of service with translation from Russian into English filed with the Court. (Exhibit "N" annexed)

I verify the above declaration is true accurate and complete under the penalty of perjury:

Camp Smith, New York
August 21 2013

/s/ Robert Greenberg

Robert Greenberg, Esq.,